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SCIENTIFIC COOPERATION

Balloon Launching and Associated Services

Memorandum of Understanding
Between the
UNITED STATES OF AMERICA
and CANADA

Signed at Washington and Ottawa
August 26 and September 9, 1983

S9.10:

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CANADA

Scientific Cooperation: Furnishing of Balloon Launching and Associated Services

Memorandum of understanding signed at Washington and Ottawa August 26 and September 9, 1983;
Entered into force September 9, 1983.

MEMORANDUM OF UNDERSTANDING
BETWEEN THE
UNITED STATES NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

AND THE

NATIONAL RESEARCH COUNCIL OF CANADA

CONCERNING THE FURNISHING OF
BALLOON LAUNCHING AND ASSOCIATED SERVICES

The National Aeronautics and Space Administration (NASA) and the National Research Council of Canada (NRCC) set forth in this Memorandum of Understanding their general understandings: (1) as to the conditions under which NASA will furnish balloon launching and associated services for scientific investigators from Canada on a reimbursable basis, and (2) as to the responsibilities of NASA and NRCC in connection with such launchings. At appropriate times in the future, separate launch services arrangements will be entered into by NASA and NRCC, which shall express the specific terms and conditions under which NASA will furnish launching and associated services for individual launchings requested by NRCC and which shall be in accord with the general understandings set forth in this Memorandum.

Article 1 - NASA Responsibilities

A. NASA will use its best efforts to carry out the following responsibilities:

1. To the maximum extent feasible, schedule the launching within the general time period requested by NRCC.

2. Provide through the University Corporation for Atmospheric Research (UCAR), or a successor facilities contractor, necessary facilities and services for operations including preparation for launch, tracking, recovery, and data retrieval; administration; and engineering support as mutually agreed.

3. Conduct launch operations, including range safety, Federal Aviation Administration and International Civil Aviation Organization coordination, launch vehicles, ancillary equipment and launch crews.

4. Furnish technical consultation or additional services in support of specific or general NRCC launch requirements as may be mutually agreed.

B. Where NASA deems it appropriate, these responsiblities will be carried out by UCAR or a successor facilities contractor. Reference herein to UCAR means UCAR or a successor contractor.

Article 2 - NRCC Responsibilities

A. NRCC will use its best efforts to carry out the following responsibilities:

1. Design, develop and test the payload(s) to be launched under this agreement.

2. Furnish information to NASA on its requirements for a particular launching or series of launchings, at least six months prior to the requested launch date. Such information will include details as to the scientific objectives, payload description, approximate launching dates, flight operations requirements and any other information requested by NASA for planning purposes.

3. Provide a flight-ready payload at the launching range, in accordance with time schedules agreed upon under the launch services arrangement.

B. NRCC may designate a University or other appropriate institute in Canada to carry out these responsibilities. Such designation shall be made by NRCC in writing as an endorsement to accompany any application for balloon flights under this Memorandum of Understanding.

Article 3 - Launch Site

A. Launchings will normally be conducted from the National Scientific Balloon Facility (NSBF) in Palestine, Texas.

B. In the case of requests for launch services from a site other than NSBF, the request should demonstrate that there is a compelling scientific reason for the flight to be launched at a remote site.

Article 4 - Financial Principles

A. Based upon the information provided by NRCC pursuant to Article 2, paragraph A.2., NASA will provide an estimate of the reimbursable charges for the requested balloon launching and associated services.

B. It is understood that in the case of flights originating outside of NSBF, reimbursement will be required for the cost of transporting personnel and equipment, equipment rentals, per diem, overtime, and other out-of-pocket expenses that would not be incurred for launchings from NSBF. When more than one flight is involved at a remote location these costs will be prorated among all investigators on a per-flight basis.

C. NRCC agrees to deposit at least one month prior to the requested date of the balloon flight, U.S. dollar funds in the amount of the estimated reimbursable charges in an account at NASA established for that purpose. A late payment penalty of one and one-half (1 1/2) per cent per month or portion thereof will be assessed and added to the amount of any payment not received by NASA by that date.

D. In the event the final cost of the services provided in accordance with this agreement exceeds the funds provided, NRCC agrees to provide additional funds as required to meet all obligations which it has incurred within sixty days of notification of the final cost. If on termination of a balloon flight project undertaken pursuant to this agreement there is an unused balance in the account, NRCC will provide to NASA instruction for the disposition of such funds.

E. It is understood that the ability of NASA and NRCC to carry out their obligations is subject to their respective funding procedures.

Article 5 - Liability

A. NASA and NRCC agree that, with respect to injury or damage to persons or property involved in operations undertaken pursuant to this agreement, neither NASA nor NRCC, shall make any claim with respect to injury or death of its own or its contractors' or its subcontractors' or other users' employees or damage to its own or its contractors' or its subcontractors' or other users' property caused by activities arising out of or connected with this project, whether such injury, death or damage arises through negligence or otherwise.

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B. With regard to third party liability, the following will apply:

1. UCAR has a policy for balloon operations conducted or supervised by UCAR personnel, under which UCAR, the Government of the United States and the user-institution are insured - to the extent of the policy coverage - for legal liability arising from third-party claims. Types of coverage and limits of coverage are as follows:

   a. For claims involving balloon operations, the amount of coverage is 100,000,000 U.S. dollars excluding damage due to radioactive sources (if any) carried in the balloon payload.

   b. For claims involving UCAR-operated tracking aircraft, the amount of coverage is at least 50,000,000 U.S. dollars.

2. UCAR and the Government of the United States are insured - to the extent of the policy coverage - for legal liability arising out of claims involving UCAR-operated vehicles and general liability hazards. The limits of coverage are 500,000 U.S. dollars bodily injury and 300,000 U.S. dollars property damage. In addition to these limits, UCAR maintains an umbrella policy which provides 10,000,000 U.S. dollars of additional coverage for such claims.

3. UCAR will maintain these policies with respect to all flights conducted or supervised by it pursuant to this Memorandum of Understanding, provided that if any of these policies are cancelled, terminated or otherwise expire, no flights will be undertaken under this Memorandum of Understanding until such time as said policy has been renewed or until substantially similar insurance in like amounts has been obtained.

4. Provided the procedures of paragraph 5, below, have been followed, the NRCC agrees to hold UCAR and its employees and agents and the Government of the United States and its employees and agents, harmless and to indemnify them for amounts paid by them as a result of judgments rendered against them or settlements made by them with respect to third-party claims for damage to or loss of property (other than the balloon or scientific payload) or death or injury to persons arising out of activities under this Memorandum of Understanding.

However, no idemnification will be required for such amounts that are paid or payable to UCAR or the Government of the United States under the insurance cited in paragraph 1, above, or such other insurance as may be applicable.

5. In the event any claim, demand, or legal action is brought against UCAR or its employees or agents, or the Government of the United States or its employees or agents, for damages to or loss of property (other than the balloon or scientific payload) or for death or injury to persons arising out of activities under this Memorandum of Understanding, the NRCC will be promptly notified. If the amount claimed exceeds or might exceed the coverage of the policies cited above, or if the claim might not be within the coverage of the policies cited above, or if the claim might not be within the coverage of any of said policies, (i) no settlements in excess of the insurance coverage or which would not be covered by any of said insurance policies will be made without the concurrence of NRCC, and (ii) NRCC, to the extent practical, will be allowed to participate in the defense of any legal actions.

Article 6 - Patent and Data Rights

A. NASA will not acquire, as a result of the launch and associated services provided under this Agreement, any rights to the NRCC's or its scientific investigators' inventions or patents which may be used in or result from the payload, or any rights to their proprietary data. NASA considers any data derived from the payload (including data reduction and analysis) by NASA in carrying out the launch and associated services to be the property of the NRCC and/or its scientific investigators, and in order to protect any intellectual property rights therein, NASA will deliver said data to the NRCC or its representative, as promptly as possible following its receipt (and processing if necessary) by NASA.

B. Notwithstanding the provisions of A. above, it is to be understood that the information to be furnished to NASA under paragraph A 2. of Article 2 in order to facilitate the launching and associated services is to be provided without use and disclosure restrictions.

Article 7 - Public Information

NASA and NRCC may release information covering their own portions of the project. If the participation of the other is involved, the parties shall consult prior to release of information. Disclosure or witholding of information by NASA is subject to domestic law.

Article 8 - Amendments

Amendments to this Memorandum of Understanding shall be by written agreement.

Article 9 - Entry into Force and Termination

This agreement shall enter into force on the date of signature thereof and shall remain in force until terminated by either party. This Memorandum of Understanding may be terminated by either party upon the furnishing of thirty (30) days advance written notice to the other party.

Upon termination, NRCC agrees to pay all costs incurred up to the point of termination and if termination is by NRCC, the costs resulting from the termination.

[1]

For the U.S. National Aeronautics and Space Administration

8-26-83
Date

at

Washington D.C.

[2]

For the National Research Council of Canada

12.9.83
Date

at

Ottawa, Ont.

[1] Kenneth S. Pedersen.
[2] B.D. Leddy.

GPO: 1985 49-439 (12800)